

Message Text

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ACTION EUR-08

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FM USMISSION USBERLIN

TO AMEMBASSY BONN

INFO SECSTATE WASHDC 56

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

C O N F I D E N T I A L USBERLIN 1985

LIMDIS

E.O. 11652: GDS

TAGS: PGOV, WB, UR

SUBJECT: SOVIET PROTEST ON EXTENSION TO WSB OF LAW ON
INTER-GERMAN COOPERATION IN CRIMINAL MATTERS

REF: MOSCOW 16370

1. SOVIET AMBASSADOR YEFREMOV INDICATED TO AMBASSADOR
HILLENBRAND AT RECEPTION OCTOBER 26 THAT HE WAS UNDER
IMPRESSION AMENDMENT TO 1953 LAW SOMEHOW INVOLVED
FEDERAL CONSTITUTIONAL COURT. AMBASSADOR HILLENBRAND
SUGGESTED IT MIGHT BE USEFUL TO HAVE MISSION CLARIFY
MATTER WITH AMBASSADOR YEFREMOV'S STAFF. POLAD
ACCORDINGLY DISCUSSED LAW WITH SOVIET EMBASSY COUNSELLOR
RODIN IN COURSE OF SOCIAL FUNCTION OCTOBER 29.

2. HAVING NOTED THAT ALLIES WOULD RESPOND TO SOVIET
NOTE IN DUE COURSE, POLAD SAID THAT IN INTERIM HIS
AMBASSADOR WANTED TO MAKE SURE NO MISUNDERSTANDING
EXISTED TO EFFECT FEDERAL CONSTITUTIONAL COURT WAS
IN SOME WAY INVOLVED IN LAW IN QUESTION TAKEN OVER
IN BERLIN. HE SHOWED RODIN COPY OF BK/O (74) 12
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CONTAINING ALLIED RESERVATIONS ON TAKEOVER, CALLING

ATTENTION TO REFERENCE TO BK/O (52)35 PRECLUDING APPLICATION TO BERLIN OF LAW ON FEDERAL CONSTITUTIONAL COURT. POLAD SAID IT SHOULD BE CLEAR THAT IN PAST ALLIES HAD CONSISTENTLY INTERVENED WHEN NECESSARY TO PRECLUDE JURISDICTION OF CONSTITUTIONAL COURT IN BERLIN CASES. THERE WAS REALLY NO NEW DEPARTURE IN AMENDMENT TO 1953 LAW, INASMUCH AS BUNDESGERICHTSHOF HAD EXERCISED JURISDICTION IN BERLIN CASES FOR MANY YEARS (STATISTICS WERE PROVIDED FOR 1969 AND 1970), AND SUBJECT LEGISLATION WAS MERELY INTENDED TO BRING PRACTICE INTO LINE WITH OTHER WELL ESTABLISHED JUDICIAL PROCEEDINGS.

3. RODIN HEARD OUT ABOVE WITHOUT COMMENT OTHER THAN TO REPEAT SEVERAL TIMES "I UNDERSTAND YOUR POSITION." HE HAD HAD CONVERSATION PREVIOUS DAY WITH BRITISH (CHAIRMAN) POLAD (WHO WAS ALSO PRESENT DURING ABOVE EXCHANGE), AND ON NEITHER OCCASION DID RODIN MANIFEST INCLINATION TO PURSUE SOVIET STATEMENT TO ALLIES OR BRUECKMANN CASE PER SE. ASKED TO CONVEY POLAD'S REMARKS TO YEFREMOV, RODIN UNDERTOOK TO DO SO.
SELIGMANN

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